Topfree Seven article for CWS, including narrative and response to story in CWS 6.2. by Mary Lou & Morley Schloss

The Topfree Seven were acquited in Rochester, New York, City Court on December 17, 1986. The women had been charged with "exposure of a person" for removing their shirts in a public park. However, Judge Herman Walz in acquiting the women ruled that the law requiring women, but not men, to cover their chests in public does not violate the United States or New York State constitutions. The acquital was based on his view that the Topfree Seven's particular action was protected as freedom of expression.

Details of the Topfree Seven's challenge to the law follow:

In 1982, the New York State legislature passed an "exposure of a person" law prohibiting nudity in New York. The law defines nudity differently for women and men, requiring women to cover their breasts below the top of the areola. ~~The law~~ The ~~law~~ passage of the law was a reaction to wide open use of Riis Park beach in the New York City area. The law exempts nudity as part of public performances, such as dancing in topless bars.

In 1983, Naturist Rochester engaged in extensive lobbying to amend the law to exempt breast feeding women and to ~~allow~~ give municipalities the option of establishing clothes-optional recreation areas. The section exempting breast feeding passed easily; the local option section was narrowly defeated. We were not able to find a legislator willing to sponsor a full repeal of the law or even the section requiring women to cover portions of their breasts.

Two women, Kathie Reilly and Ramona Santorelli, contacted ~~Natur~~ Morley Schloss, coordinator of Naturist Rochester, concerning a legal challenge to the portion of the law which discriminates against women. Ramona had been particularly upset when a guard at a local park asked her to put on her shirt when a man

it was slightly different - but I'll let this slide

near
~~next to~~ her was permitted to remain topfree.

~~Several planning meetings~~ A number of women and men met several times to plan ~~the~~ an act of civil disobedience in an effort to challenge the constitutionality of the law. Our contention was that by ~~having different standards of dress for women~~ and men requiring women, but not men, to cover their chests in public, the law denied women the equal protection of the law guaranteed by the 14th amendment to the U.S. Constitution and similar provisions of the N.Y. State Constitution. The people planning the event agreed to ~~Quaker style~~ a "topfree picnic" in a fairly secluded area of a local park. We planned a Quaker style action in which we would sit quietly with no debate with ~~any~~ crowd that gathered ~~that~~ in an effort to avoid unnecessary confrontation which might distract from the message we wished to communicate. Women who chose to remove their shirts (and not put them on when requested by the police) would peacefully submit to arrest.

We agreed that press coverage was important. A press release explaining the purpose and date of the action was ~~prepared but~~ and distributed, but the exact time and location ~~of the event action~~ were ~~was~~ not revealed to the press until the morning of the topfree picnic. We wished to avoid attracting a large crowd. →

← After much debate we decided ~~not~~ to notify the police in advance but to call them ourselves if no one complained when the women removed their shirts. (4) The picnic

We all agreed not to have press coverage in advance

was scheduled for Saturday, June 21, 1958, the ~~when~~ summer solstice, when Judge Herman Walz ~~would~~ would be the judge in City Court hearing new cases. In Rochester, the judge first ~~has~~ receiving a case follows it to its conclusion. Judge Walz was selected because ~~of his history~~, it was believed that he was the judge most likely to be sympathetic to the constitutional issues involved. He had a history ~~of~~ as an attorney of defending peace and civil rights movement cases and had been a founder of the local chapter of the American Civil Liberties Union.

~~Four women~~ A ~~the~~ topless picnic ~~several~~ ~~several~~ women were arrested when they refused to put on their shirts. ~~The women~~ Four of the women, Kathie Reilly, Ramona Santorelli, Mary Lou Schloss, and Elize Tooley had been involved in the planning meetings. Nikki Craft who had been invited to come to Rochester to present a slide show on her experiences in challenging anti-nudity laws ~~whic~~

A final meeting ~~planned~~ to brief supporters and raise funds for the legal defense fund was planned for the evening before the picnic. Nikki Craft (from the Naturist Society in Oshkosh, Wisconsin) who ~~has~~ has participated in nationwide challenges to anti-nudity laws which discriminate against women was invited to present a slide show on her experiences

not accurate

ask Nikki

~~as well as~~ on her ~~efforts to educate people about the problems~~ of pornography in our society. Sixty supporters attended the meeting.

At the topfree picnic ~~seven women were arrested when the refused to put~~ nine women and two girls as well as many men removed their shirts. Seven women were arrested when they refused to put them on when requested by police. Four of the seven women arrested, Kathie Reilly, Ramona Santorelli, Mary Lou Schloss, and Elise Tooley had been involved in the planning meetings. Also arrested were ~~Nikki Craft and~~ Lynn Zicari who had come to the support meeting the evening before, Debora Seymour who had ~~read about th~~ learned about the event in the media and come to the park to join in, and Nikki Craft. Tierney O'Brien-Dovan, Susan Wain, Hilary Schloss, and Mollie Dovan ~~removed~~ were topfree but ~~decided to avoid arres~~ chose to put on shirts when requested by police. There were probably 100 supporters in the park including most of those who attended the meeting the previous evening. Of particular help at the park were Fred Lewis, George Madden, Barbara Schanzer, and Morley Schloss who had participated in the planning meetings, and later provided much assistance prior to and during the Trial.

Several circumstances did ~~interfere~~ alter the quiet picnic which was planned. The ~~media grabbed the~~

They were handed the story

story as soon as the press release was issued several days before the picnic. It ~~resulted in the~~ became the front page lead story with large headlines in the local newspapers. Radio and television stations ~~talk~~ conducted interviews with participants and police. ¶ The police convinced one of the ~~women~~ participants to reveal the exact time ~~of~~ and place of the picnic to them. The police arrived early in several marked cars and a paddy wagon. Even though the press had refrained from revealing the details, the police presence drew a crowd of between 50 and 400 people ~~to the~~ (police estimates) to the scene. The number was probably close to 200, not the 400-600 mentioned in CWS 6.2. ~~Contrary to the CWS article, the picnic was not "a near riotous situation."~~ Half ~~and~~ this number were ~~included~~ ~~the many~~ close to 100 supporters. There was also ~~and~~ a large contingent of ~~pre~~ reporters as well as ~~the~~ men who came for "the show." ¶ The supporters sat in a large circle approximately three people deep surrounding the topfree women. ~~Many~~ Some of the gawkers had beer and whistled when the women removed their shirts; a very few made crude, immature remarks such as, "Take it off, baby." Most of the cameras present were in the hands of ~~our~~ reporters, the police?; and our supporters documenting the event.

Seemed like more than a few.

I disagree

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BUT DISCRIMINATORY LAW UPHELD
APPEALS EXPECTED

Rochester's Topfree Seven were acquitted in a decision issued by City Court Judge Herman Walz on December 17, 1986. The seven women, Kathie Reilley, Ramona Santorelli, Mary Lou Schloss, Elise Tooley, and Lynn Zicari from Rochester as well as Nikki Craft from Wisconsin and Debora Seymour from Oregon had been charged with "exposure of a person" for removing their shirts in Cobbs Hill Park last summer. The Topfree Seven had challenged the constitutionality of the New York State law which requires women, but not men, to cover their chests in public. Judge Walz summarized his 18 page decision: "I conclude that the statute is constitutional. However, I also conclude that as applied in this particular case the statute violates their rights to free expression as guaranteed by the federal and state constitutions."

* * * * *

Although acquitted, the Topfree Seven and their supporters reacted with shock and disappointment that Walz had rejected their primary challenge to the constitutionality of the law: that it discriminates against women and denies them equal protection of the law. Walz wrote: " There is no fundamental right to appear nude or topfree in public... Today, community standards as perceived by the Legislature regard the female breast as an intimate part of the human body. Therefore, the state may legitimately enforce this standard by requiring that the female breast not be exposed in public places." Courts have ruled that discrimination based upon gender (unlike discrimination based upon race or religion) may be justified if it serves a substantial government interest. Walz wrote: "The classification serves important government objectives and the discriminatory means employed are substantially related to the achievement of those objectives."

The Topfree Seven were acquitted in this case since their being topfree in public was associated with otherwise protected free expression (e.g. press releases, fliers, media interviews). This opens the door to anyone being nude in New York if they are clearly advocating a cause such as establishment of a clothing optional beach. If Walz's decision is upheld in higher courts, naturists should be able to enjoy nude beaches legally if they distribute leaflets, carry signs, or paint messages on their backs. Since the Topfree Seven were acquitted, they cannot initiate an appeal to Walz's decision in higher courts. However, District Attorney Howard Relin, after some waivering, is currently planning to appeal. He has been made aware that if he doesn't appeal, women would repeat the action next summer, leading to another time consuming and costly trial, next time without the freedom of expression defense. That way the women would either get a favorable decision on the topfree equality issue, which DA Relin would probably appeal, or lose and be eligible to appeal to higher courts themselves. Relin also understands that unless the law is appealed, naturists will hit the beaches next summer protected by signs and leaflets.

* * * * *

1 9 8 7

The Topfree seven's actions have served as an important tool to educate people. The case received front page headlines in the local papers on several occasions. Radio and television coverage was extensive.

The case became a major topic of conversation in Rochester for several months. Most editorials were favorable. The topfree equality cause received national and international attention with members of the Topfree Seven appearing on the Donohue Show, AM America, The Morning Show with Regis Philbin, and People Are Talking. There was even a radio interview from Australia and a news story in a Hong Kong paper. People who at first thought the cause was trivial later gave the cause serious support. (continued on page 2)

Winter Activities

The swimming pool, whirlpool, and sauna at the Schloss home, 237 Vasser St., are now available approximately five days a week. Call 244-1219 between 6:00 p.m. and 7:30 p.m. on the evening you wish to attend to determine whether the facilities are open. Please remember to bring a towel and a contribution.

1) It damages women's emotional and physical health and body self-concepts. Depression, eating disorders, avoidance of early detection and treatment of breast cancer and breast augmentation becoming the leading cosmetic surgery in the U.S. are related to the attempt to attain the unnatural dimensions of the beauty ideal portrayed by media, advertising, and beauty pageants.
2) It produces an unhealthy obsession with breasts as sexual objects which interferes with the formation of relationships of equality between men and women. Breasts may be exposed in bars to sell drinks to men, but women may not be topless on a beach for their own pleasure.
3) It discourages breastfeeding when the promotion of breastfeeding is an important stated objective of both the United States Surgeon General and the New York State Commissioner of Health.

Expert testimony to support these assertions was ~~presented~~ provided by psychologists Melissa Farley and Marilyn Story and by medical-cultural anthropologists Dana Raphael. Even Barbie doll with her ~~unattainable~~ unattainable figure including breasts that defy gravity was introduced to show that girls grow up with ~~unattainable~~ unrealistic body ideals when

~~Most, but not all~~ Almost all people at the park apparently believed in the women's right to remove their shirts, although not all for the same reason. Most of the men who came as gawkers booed when the police arrived to make arrests. ~~We~~ Other than some police officers, we can recall (and the videotapes support our ~~[illegible]~~ recollection) only one man who objected when the women removed their shirts.

I would say it was potentially riotous

Contrary to the assertion in CWS 6.2, it was not a "near riotous situation". There was no physical violence or even threat of it. No woman was pushed or touched in an unfriendly manner. There were no requests for sexual favors. Every police officer at the trial described the picnic as orderly. ~~We saw a~~ The few somewhat intoxicated, smirking men eager for a show, were outnumbered by calm supporters, ~~but~~ With one exception, we saw no angry faces or hostility. Members of the Topfree Seven did express discomfort and uneasiness at being in the center of gawking men. It was not a pleasant, relaxing picnic. However, none of the women were so intimidated that they left or declined to remove their shirts. Only Nikki Craft, who wrote the CWS article, expressed fear. Nikki quoted Morley Schloss as stating that there was no sexual harrassment. Taken in context, he was ~~[illegible]~~ ~~[illegible]~~ speaking of physical harrassment or threats, not of the ~~typical~~ sexist whistles

How do you know?

Other women were intimidated, fearful

Thought had crossed my mind

There was sexual harrassment - LOTS

or ~~[illegible]~~ comments ~~[illegible]~~ so ~~[illegible]~~ common in our society which were certainly in evidence.

Nikki wrote that she was "shocked" when several of the ~~[illegible]~~ topfree people asked her to sit down with the group during the picnic. She was simply being asked to conform to the planned style of action. ~~The rest of the women and the~~ Nikki insisted on standing with her fist in the air, ~~and~~ lecturing, and debating with members of the crowd, contrary to the plan of sitting quietly and avoiding confrontation (communication?). This did ~~tend to~~ change the tone of the picnic. Nikki also was the first to remove her shirt — at a time when chosen spokesperson Ramona Santorelli was ~~at even~~ temporarily away from the group. Nikki's approach may have been a superior tactic, although we doubt it, but it was not appropriate under the circumstances and ~~may~~ tended to confuse the group. In her defense, Nikki, coming from out of town the day before the action, may not have been aware of the advance planning. While the expectations were stated at the meeting the evening before the action, Nikki was worried about malfunctioning slide projectors and out of order slides and ~~[illegible]~~ was not able to fully participate.

There was more going on here than simple conformity. Fear of interaction and possible violence from crowd. M. expressed fear of situation deteriorating.

I thought we could talk to anyone who wanted to talk -- any of us. F. of S

I don't feel that Nikki meant to undermine the group.

This was due more to lack of communication across the miles; that is my feeling

come on

we weren't discussing tactics then

At the trial, five of the women were represented by David Moss, a lawyer found for us

by the local chapter of the American Civil Liberties Union. David served pro bono (for the good—without fee). Ramona Santorelli was defended by Larry Kasperek of the Public Defenders office. Mary Lou Schloss defended herself. In fact, Mary Lou and the attorneys worked closely together, dividing ~~up~~ the preparation and presentation of the case. ~~Having one or more of the defendants in this type of case represented~~ represent themselves often, Mary Lou chose to represent herself since judges often allow ~~people~~ defendants without attorneys more latitude in the presentation of evidence. That strategy was effective in this case. The lawyers prepared ~~briefs~~ traditional briefs emphasizing the ~~precedent~~ precedents related to the constitutional issues. Mary Lou's brief dealt with the issues from a psychological and sociological perspective.

The defense contended that the law ~~was~~ is unconstitutional since 1) it denies women equal protection of the law, 2) it inhibits, as applied in this case, freedom to effectively express important ideas, ~~equal protection of the law~~, and 3) it is vague and not ~~easily~~ consistently enforced. We spent most time on the first issue.

That the law discriminates against women was easy to demonstrate and has been ~~well~~ thoroughly discussed in

previous issues of CWS. However courts have ruled that sexual discrimination unlike racial or religious discrimination, is constitutionally permitted (absent the ERA) if it serves a substantial government interest. We argued that there is no such government interest. On the contrary, we argued that there are ~~no~~ substantial government interest in striking down the law.

We presented evidence that laws requiring women to cover their breasts in public will not protect women from violent crime. Even if they did, courts have ~~consistently~~ consistently ruled that potential victims may not be punished or restricted to reduce the probability of criminal acts ~~to reduce the probability of criminals acts~~ by others.

A more difficult to counter possible government interest is that the sight of women's breasts is ~~are~~ offensive to community standards. To refute this assertion, we introduced opinion polls, evidence that women regularly enjoy parks and beaches topfree around the world and even in New York State, and the growing acceptance of breasts in the media.

We conducted and introduced a survey of New York State Naturist Society contacts which found that over 2,000 women use New York beaches and parks topfree without harassment on hot summer weekends.

Testimony was presented by expert witnesses Lee Baxandall, Bern Loibl, Morley Schloss and Nina Silver. We contended that protecting a few people from being offended by the sight of breasts (which they can easily avoid viewing) in no way can justify discrimination against women.

We presented evidence that requiring women, but not men, to cover their breasts in public has adverse effects:

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Although acquitted, the Topfree Seven and their supporters reacted with shock and disappointment that Walz had rejected their primary challenge to the constitutionality of the law: that it discriminates against women and denies them equal protection of the law. Walz wrote: " There is no fundamental right to appear nude or topfree in public... Today, community standards as perceived by the Legislature regard the female breast as an intimate part of the human body. Therefore, the state may legitimately enforce this standard by requiring that the female breast not be exposed in public places." Courts have ruled that discrimination based upon gender (unlike discrimination based upon race or religion) may be justified if it serves a substantial government interest. Walz wrote: "The classification serves important government objectives and the discriminatory means employed are substantially related to the achievement of those objectives."

The Topfree Seven were acquitted in this case since their being topfree in public was associated with otherwise protected free expression (e.g. press releases, fliers, media interviews). This opens the door to anyone being nude in New York if they are clearly advocating a cause such as establishment of a clothing optional beach. If Walz's decision is upheld in higher courts, naturists should be able to enjoy nude beaches legally if they distribute leaflets, carry signs, or paint messages on their backs. Since the Topfree Seven were acquitted, they cannot initiate an appeal to Walz's decision in higher courts. However, District Attorney Howard Relin, after some waivering, is currently planning to appeal. He has been made aware that if he doesn't appeal, women would repeat the action next summer, leading to another time consuming and costly trial, next time without the freedom of expression defense. That way the women would either get a favorable decision on the topfree equality issue, which DA Relin would probably appeal, or lose and be eligible to appeal to higher courts themselves. Relin also understands that unless the law is appealed, naturists will hit the beaches next summer protected by signs and leaflets.

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The case became a major topic of conversation in Rochester for several months. Most editorials were favorable. The topfree equality cause received national and international attention with members of the Topfree Seven appearing on the Donohue Show, AM America, The Morning Show with Regis Philbin, and People Are Talking. There was even a radio interview from Australia and a news story in a Hong Kong paper. People who at first thought the cause was trivial later gave the cause serious support. (continued on page 2)

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Topfree Seven continued . . .
The trial lasted 3 1/2 days. An additional half day was devoted to oral arguments after all legal briefs had been submitted. Judge Walz allowed the defense wide latitude in presenting evidence. Attorneys Larry Kasperek and David Moss plus Mary Lou Schloss who represented herself worked together to organize and present the defense. Seven expert witnesses testified. All members of the Topfree Seven took the stand to explain why they joined in the civil disobedience.

The Topfree Seven contended that their action was constitutionally protected as freedom of expression since it was the most effective method to convey important ideas and was associated with other forms of protected speech. This was the rationale used by Judge Walz to acquit the women. The defense also asserted that the law is unconstitutional since it is vague and not consistently enforced.

However, the major defense position was that the "exposure of person" law is unconstitutional because it discriminates against women without any substantial government interest which could justify such discrimination. The Topfree Seven introduced opinion polls, evidence that women regularly enjoy parks and beaches topfree around the world and even in New York State, and the growing acceptance of women's breasts in the media to demonstrate that the Topfree women are not offensive to general community standards. They introduced a survey which found that over 2,000 women use New York State parks and beaches topfree on hot summer weekends without harassment. They contended that protecting a few people from being offended by the sight of breasts (which they can easily avoid viewing) in no way can justify discrimination against women.

The defense argued that the law is actually detrimental to important government interests. Requiring women, but not men, to conceal their breasts in public damages women's body self-concept and physical and mental health. Depression, eating disorders, avoidance of early detection and treatment of breast cancer, and breast augmentation becoming the leading cosmetic surgery in the United States are related to the attempt to attain the unnatural dimensions of the beauty ideal portrayed by media advertising and beauty pagents.

Requiring the concealment of women's breasts produces an unhealthy obsession with breasts as sexual objects which interferes with the formation of relationships of equality between women and men. Under the New York law, breasts may be legally used in topless bars to sell drinks to men while women may not be topfree on a beach for their own pleasure.

The law discourages breastfeeding at a time when the promotion of breastfeeding is an objective of both the United States Surgeon General and the New York State Commissioner of Health.

Even the Barbie doll, with her unrealistic figure and breasts that defy gravity, was introduced to show that girls grow up with unattainable bodily images when they are denied the sight of the variety of breasts on real women in natural, nonsexual settings.

Unfortunately, Judge Walz ignored this evidence while accepting the prosecutions's assertion that the Legislature has the authority to define and protect community standards regardless of the negative impact upon women and society in general. He recognized a substantial government interest in protecting narrowly defined and not uniformly accepted community standards while ignoring important government interests which are damaged by the law. It is this judgment that will be appealed to higher courts. Topfree equality remains the goal.

The Topfree Seven and their support group thank all those who have wished them well and those who have contributed to the legal defense fund. The fund is now depleted. Contributions are needed to finance the appeal. Please make checks payable to:

Topfree Seven
237 Vasser Street
Rochester
New York 14607

NUDIST PARK GUIDE AVAILABLE

The fifteenth edition of the American Sunbathing Association's Nudist Park Guide is now available. The Guide has complete listings (descriptions, facilities, directions) for most nudist parks in the United States and Canada. Contact Morley Schloss at 244-1219. The cost is $9.00, three dollars off list price.

1) It damages women's emotional and physical health and body self-concepts. Depression, eating disorders, avoidance of early detection and treatment of breast cancer and breast augmentation becoming the leading cosmetic surgery in the U.S. are related to the attempt to attain the unnatural dimensions of the beauty ideal portrayed by media, advertising, and beauty pageants.
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Expert testimony to support these assertions was ~~presented~~ provided by psychologists Melissa Farley and Marilyn Story and by medical-cultural anthropologists Dana Raphael. Even Barbie doll with her ~~unattainable~~ unattainable figure including breasts that defy gravity was introduced to show that girls grow up with ~~unrealistic~~ unrealistic body ideals when

they are denied the sight of the variety of breasts of real women in natural, nonsexual settings.

Secondarily, we argued that the actions of the Topless Seven were protected because they were the most effective methods of conveying important ideas. Courts have ruled that acts are protected as speech when clearly associated with protected speech. We issued a press release, distributed fliers, and held signs. This defense was suggested by Lee Baxandall of the Naturist Society.

The trial lasted 3½ days. An additional half day was spent on oral arguements after all briefs were submitted. The judge allowed virtually all materials we desired to be submitted as evidence. All members of the Topfree Seven took the stand to explain why they joined in the civil disobedience. Their testimony was moving, at times bringing people in the courtroom to tears.

At the trial there was some disagreement over evidence to be presented. Nikki Craft, who for years has been a leader of the anti-pornography movement in this country, introduced the role of pornography in damaging women. She has presented a similar case in CWS. We personally believe that pornography is more of a symptom than a cause of social malaise. Attitudes toward women, relationships between men and women and sexual practices are determined by a variety of societal influences - parents, friends, teachers, TV shows, movies, books, videos, pop music, etc. People with pornographic attitudes buy pornography. Those with healthy, wholesome attitudes have no interest in these materials.

While all members of the Topfree Seven believe that degrading pornography, particularly if it portrays violence is cause for concern, most of us wished to focus our testimony on equal protection of the law for women and the pernicious effects of requiring

an action she took to protest ~~[illegible]~~ testimony by one of the expert witnesses citing studies that show that simple pictures of nude women do not increase and may actually decrease aggressive behavior in men.

women but not men to cover their chests in public. We did not wish to confuse the issues. The other defendants refused to join Nikki in destroying porn magazines outside the courtroom. For some, this may have been a disagreement over tactics as much as or more than as disagreement over issues.

She asked M. to keep out of the Topfree conversation

At one time Nikki attempted to exclude men from involvement in decision making or communication with the press. ~~Men such as~~ A number of men put in many days of work in making the action of the Topfree Seven a success. ~~The topfree~~ While the topfree equality issue has the most direct effect upon women, it has important ramifications for men as well. The issue is not one of women versus men. Women, as well as expressing some of our strongest ~~[illegible]~~ support in letters to the editor, expressed the harshest criticism. The other defendants refused to exclude supporters regardless of gender.

Nikki did not exclude male supporters

We have written here of some of our differences with Nikki Craft's perception and tactics. We write in response to some assertions she made in her "Liberty Summer" article in CWS 6+2. We would also like to state that Nikki made a number of important contributions. She spoke forcefully in TV interviews, asked supporters at the park to sit down (an important tactic in identifying

supporters and isolating gawkers), and gave an imaginative, effective closing statement at the Trial. It was probably too much to expect Nikki, an experienced leader with strong convictions, to accept a supportive role in a local group with a somewhat different agenda. On the other hand, it was difficult for our local group with months of planning behind it to defer the leadership to an outsider.

We have dwelt here on some differences in perception, style, and tactics. Much more important is that the Topfree Seven overcame their internal conflicts (for we agree on far more than we disagree) to produce an action that resulted in positive and widespread publicity in the struggle for topfree equality and naturist ideals. ~~People who at first thought our cause to be trivial now give us serious support. The press is~~ The national press has given us significant attention. Members of our group have appeared on the Donahue Show, AM America, The Morning Show with Regis Philbin, People Are Talking, and the Sally Jesse Raphael Show. People who at first thought our cause to be trivial now give us serious support.

There was even a radio interview from Australia and a news story in a Hong Kong paper.

Judge Walz rendered his ~~decision~~ judgement in an 18 page decision on December 17, 1986. Walz summarized his decision: "I conclude that the statute is constitutional. However, I also conclude that as applied to defendants' conduct in this particular case the statute violates their rights to free expression as guaranteed by the federal and state constitutions."

Although acquitted, the Topfree Seven and their supporters reacted with shock and disappointment that Walz had rejected their primary challenge to the law. Walz wrote: "There is no fundamental right to appear nude or topfree in public.... Today, community standards as perceived by the Legislature regard the female breast as an intimate part of the human body. Therefore the state may legitimately enforce this standard by requiring that the female breast not be exposed in public places... The classification serves important governmental objectives and the discriminatory means employed are substantially related to the achievement of those objectives."

Unfortunately Judge Walz ignored the evidence we presented regarding current community standards and the law's pernicious effects. He accepted the prosecution's assertion that the Legislature has the authority

good

to define and protect community Standards regardless of the negative impact upon women and society in general. He recognized a Substantial ~~interest~~ government interest in protecting narrowly defined and not uniformly accepted community Standards while ignoring important government interests which are damaged by the law. It is this judgement which must be appealed to higher courts

Judge Walz acquitted the Topfree Seven because their being topfree in public was associated with otherwise protected free expression (eg. press releases, fliers, interviews, signs). This decision opens the door to anyone being nude in New York if they are clearly advocating a cause such as the

establishment of a clothing optional beach. If Walz's decision is upheld in higher courts, naturists should be able to enjoy nude beaches legally if they carry signs or paint messages on their backs.

Since the Top free Seven were acquitted, they can not appeal Walz's decision to higher courts. However, the District Attorney after some waivering is currently planning to appeal. We informed him that if he didn't appeal women would repeat the action next summer leading to another time consuming and costly trial, next time without the freedom of expression defense. That way, the women would either get a favorable decision on the equal rights issue or lose and be able to appeal to a higher court themselves. Also, we warned the District Attorney that without an appeal, naturists would hit the beaches and parks next summer protected by signs and leaflets.

We are pleased that the District Attorney now plans to appeal as it will give us the opportunity to present the equal protection of the law issue in higher courts where we hope to win. We would like higher courts to rule that community standards as defined by the legislature cannot be used to justify this form of discrimination

against women.

The Topfree Seven ~~and~~ and their support group wish to thank all those who have ~~visited~~ communicated support and especially those who have contributed to our legal defense fund. The fund is now depleted. Contributions are needed to finance the appeal. Please ~~send~~ make checks payable to the Topfree Seven and send them to 237 Vassar St., Rochester, NY 14607.

Fifty years ago, men in NewYork State gained the right to enjoy beaches and parks topfree. Topfree equality for all is long overdue.